

REMARKS

Claims 1 and 24 are amended. New Claims 26 and 27 are added. Support for new claim 26 can be found on page 9, lines 33-34, of the specification. Support for new claim 27 can be found on page 10, lines 3-6, of the specification. No new matter is presented.

I. Claim to Priority

The Examiner has acknowledged Applicants' claim to priority and receipt of the priority documents. The Examiner correctly recognizes the present application as a §371 of PCT/JP04/07436 filed on May 25, 2004. The Action further states that should Applicants desire to obtain the benefit of foreign priority under 35 U.S.C. § 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this Action. 37 CFR 41.154(b) and 41.202(e). It is further indicated that failure to provide a certified translation may result in no benefit being accorded for the non-English application.

Applicants respectfully submit that the Examiner's statement is in error. Applicants are not required to submit certified English translations of the priority documents except when the application is involved in an interference, when necessary to overcome the date of a reference relied on by the Examiner or when specifically required by the Examiner. See 37 C.F.R. § 1.55(a)(4)(i)(A)-(C).

Since the present application is not involved in an interference, the Examiner has not expressly required an English translation of the Japanese priority document, and it is not necessary to overcome the date of a reference relied on by the Examiner at this time, a certified English translation of the Japanese application priority document is not being submitted herewith. No further action is believed to be required.

II. Response to Claim Rejection under 35 U.S.C. § 103

Claims 1, 2 and 4 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ishikawa *et al.*

The Examiner states that Ishikawa *et al.* teaches a composition containing the monobiguanidine compound of Example 1 and a polyoxyethylene-based nonionic surfactant: polyoxyethylene phenyl ether. See columns 23 and 24, prescriptions 1 and 2. Regarding claim 4, the Examiner states that Ishikawa *et al.* further teaches concentrations of olanexidine between 0.5 and 5% and concentrations of nonionic surfactant of 0.375 to 3.75%, which is within the present claimed range.

Applicants traverse the rejection.

The Examiner admits that Ishikawa *et al.* does not specifically teach a polyoxyethylene higher alkyl ether or polyoxyethylene higher alkylphenyl ether surfactant.

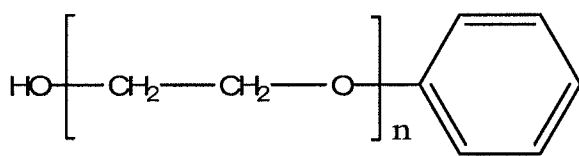
The present invention is directed to a disinfectant and/or bactericidal aqueous composition, containing an olanexidine acid addition salt, and at least one polyoxyethylene-based nonionic surfactant selected from polyoxyethylene higher alkyl ethers as recited in amended claim 1. An object of the present invention is to provide an aqueous composition that contains olanexidine or a salt thereof dissolved in a high concentration.

In contrast, Ishikawa *et al.* merely discloses that a monobiguanide derivative can be used in the form of a solution, a dispersion or a suspension by dissolving, dispersing or suspending a specified amount of the biguanide derivatives in water or an organic solvent. Since Ishikawa *et al.* does not mention or even recognize that olanexidine or a salt thereof is only slightly soluble

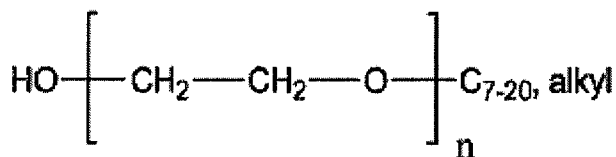
in water, there is no motivation that would lead a skilled artisan to increase the concentration of a solution of olanexidine or a salt thereof.

Furthermore, the polyoxyethylene phenylether of Ishikawa *et al.* is different from the polyoxyethylene higher alkyl ether of the present invention in its structure.

Specifically, the structure of the polyoxyethylene phenyl ether used in Ishikawa *et al.* is shown below:



The structure of the polyoxyethylene alkyl ether used in the present invention is as below:



In this regard, it is clear that the polyoxyethylene phenylether of Ishikawa *et al.* is different from the polyoxyethylene higher alkyl ether of the present invention. Accordingly, a person having ordinary skill in the art would not be motivated from the disclosure of Ishikawa *et al.* to increase the concentration of the solution of the olanexidine or a salt thereof using the “polyoxyethylene higher alkyl ether” of the present invention.


Accordingly, Applicants respectfully request withdrawal of the rejection based on Ishikawa *et al.*

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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